

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**ENVIRONMENTAL INTEGRITY
PROJECT**

1000 Vermont Ave. NW, Suite 1100
Washington, DC 20005

Plaintiff,

v.

**UNITED STATES
ENVIRONMENTAL
PROTECTION AGENCY**

1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Defendant.

Civil No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff, the Environmental Integrity Project (EIP or “Plaintiff”), files this complaint for declaratory and injunctive relief to remedy violations of the Freedom of Information Act (FOIA or “Act”), 5 U.S.C. § 552, — more specifically, the failure of the Defendant, the U.S. Environmental Protection Agency (EPA or “Defendant”), to respond to Plaintiff’s August 14, 2017 FOIA request (EPA-HQ-2017-010504) and August 17, 2017 FOIA request (EPA-HQ-2017-010603) within 20 working days as mandated by the statute, and to produce the records improperly withheld by Defendant.

JURISDICTION

2. This action arises under the citizen suit provision of the Freedom of Information Act. 5 U.S.C. § 552(a)(4)(B).

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

4. This Court is a proper venue for all FOIA actions. 5 U.S.C. § 552(a)(4)(B); *In re Scott*, 709 F.2d 717, 720 (D.C. Cir. 1983).

5. FOIA provides that this Court may issue a declaratory judgment, provide injunctive relief from withholding records and to order production of such records, and grant other equitable relief as the Court may deem just and proper. 5 U.S.C. § 552(a)(4)(B); *Payne Enterprises, Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988) (“The FOIA imposes no limits on courts’ equitable powers in enforcing its terms.”) (*citing Renegotiation Bd. v. Bannercraft Clothing Co., Inc.*, 415 U.S. 1, 19-20 (1974) (“With the express vesting of equitable jurisdiction in the district court by § 552(a), there is little to suggest, despite the Act’s primary purpose, that Congress sought to limit the inherent powers of an equity court.”)).

6. This Court has jurisdiction to hear this claim, as Plaintiff has exhausted its administrative remedies through EPA’s failure to respond within 20 working days as required by law. 5 U.S.C. § 552(a)(6)(A)(i). Under FOIA, requesters “shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions” 5 U.S.C. § 552(a)(6)(C)(i).

7. This Court may award attorney fees and litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E).

PARTIES

8. Plaintiff EIP is a nonpartisan, nonprofit organization founded in 2002 by former EPA enforcement attorneys to advocate for more effective enforcement of environmental laws. EIP's three main objectives are: to illustrate through objective facts and figures how the failure to enforce or implement environmental laws increases pollution and affects the public's health; to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and to help local communities in key states obtain the protection of environmental laws. Consistent with our mission, we submit FOIA requests from time to time for records that may indicate how outside interests may be influencing EPA's implementation or interpretation of its statutory responsibility to protect health and the environment.

9. Defendant EPA is a government agency responsible for protecting human health and the environment. Defendant EPA has possession, custody, and control of records to which Plaintiff EIP seeks access. Defendant EPA is headquartered at 1200 Pennsylvania Avenue NW, Washington, DC 20460.

LEGAL BACKGROUND

EPA's Requirements to Respond to FOIA Requests

10. FOIA requires that an agency "shall determine within 20 [working] days . . . after the receipt of any [FOIA] request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor; the right of such person to seek assistance from the FOIA Public Liaison of the agency; and in the case of adverse determination – the right of such person to appeal...[or] to seek dispute resolution services from the FOIA Public Liaison. . . ." 5 U.S.C. § 552(a)(6)(A)(i). In "unusual

circumstances” the time limits may be extended by written notice, which must include “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B)(i). This extension notice may not “specify a date that would result in an extension for more than ten working days” unless defendant invokes a narrow exception, wherein the agency reasonably asks the requester to narrow the scope of his or her inquiry. *Id.* Thus, the statute mandates that an agency shall respond with a determination no more than 30 working days after receiving a FOIA request.

11. Upon any request for records, an agency shall make the records “promptly available.” 5 U.S.C. § 552(a)(3)(A); *see also* 40 C.F.R. § 2.104(f) (“Once an office makes a determination to grant a request in whole or in part, it will release the records or parts of records...”).

Exhaustion of Administrative Remedies

12. FOIA provides that “[a]ny person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions” 5 U.S.C. § 552(6)(C)(i).

FACTUAL BACKGROUND

August 14 FOIA Request

13. On August 14, 2017, Plaintiff submitted a FOIA request using the federal government’s FOIAonline website, seeking: (1) Administrator Pruitt’s schedule of meetings with outside parties from May 19, 2017 to August 14, 2017, and (2) Administrator Pruitt’s travel vouchers from June 13, 2017 to August 14, 2017. This request included an offer to clarify and limit the request. *See* 5 U.S.C. § 552; EIP FOIA Request (August 14, 2017) (Ex. A).

14. EPA confirmed that it received the request on August 14, 2017. The FOIA tracking number for this request is EPA-HQ-2017-010504. EPA Receipt Confirmation Email to EIP (August 17, 2017) (Ex. B).

15. EPA neither responded to the request nor sought any clarification or extension by September 12, 2017 (i.e., within 20 working days after receiving the FOIA request).

August 17 FOIA Request

16. On August 17, 2017, Plaintiff submitted a FOIA request using the federal government's FOIAonline website, seeking records of travel vouchers for all travel outside of Washington, DC by any and all EPA staff accompanying Administrator Pruitt, (1) from February 21, 2017 through June 4, 2017, and (2) from June 13, 2017 through August 17, 2017. *See* 5 U.S.C. § 552; EIP FOIA Request (August 17, 2017) (Ex. C). This request included an offer to clarify and limit the request.

17. EPA confirmed that it received the request on August 17, 2017. The FOIA tracking number for this request is EPA-HQ-2017-010603. EPA Receipt Confirmation Email to EIP (August 17, 2017) (Ex. D).

18. EPA neither responded to the request nor sought any clarification or extension by September 15, 2017 (i.e., within 20 working days after receiving the FOIA request).

EPA's Failure to Respond and Produce the Requested Records

19. On October 10, 2017, EIP emailed Defendant to ask for a status update on when EPA will respond to and produce the requested records for both the August 14 FOIA request and the August 17 FOIA request. *See* Email Exchange between Sylvia Lam, EIP and Wendy Blake, EPA (October 10-16, 2017) (Ex. E).

20. EPA replied on both October 13 and October 16, 2017 that it cannot provide a schedule for when it will respond to and release the records in response to either the August 14 FOIA request or the August 17 FOIA request. Ex. E.

21. As of the date of filing this complaint, Defendant EPA has neither notified Plaintiff of any determinations it may have made as to whether to comply with Plaintiff's FOIA requests nor produced any records in response to either request.

CLAIM FOR RELIEF:

VIOLATION OF 5 U.S.C. § 552

22. Plaintiff re-alleges and incorporates paragraphs 1 through 21.

23. Plaintiff has a statutory right to have EPA process Plaintiff's FOIA requests and to receive notice of EPA's determination whether to comply with Plaintiff's requests within the timeframes mandated by the Act, and to have the requested records made promptly available to Plaintiff.

24. Defendant's failure to timely respond to Plaintiff's FOIA request is an improper withholding of requested records and violation of the FOIA requirement that an agency "shall determine within 20 [working] days . . . after the receipt of any [FOIA] request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor" 5 U.S.C. § 552(a)(6)(A)(i). FOIA then requires that "each agency, upon any request for records... make the records promptly available..." 5 U.S.C. § 552(a)(3)(A).

25. This delay is unreasonable in light of the fact that the records EIP is requesting are possessed by EPA and readily accessible by the Agency.

26. EIP is unable to obtain the requested records directly from alternate sources because the requested materials were produced and are held by EPA.

27. EPA's disregard of its duty to release the documents requested has harmed and will continue to harm Plaintiff until EPA is compelled to comply with FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare Defendant's failure to timely respond to Plaintiff's requests to be unlawful under FOIA, 5 U.S.C. § 552(a)(6)(A)-(B).

B. Order Defendant to respond to Plaintiff's August 14, 2017 and August 17, 2017 FOIA requests.

C. Order Defendant to immediately provide Plaintiff with all records responsive to Plaintiff's FOIA requests.

D. If EPA's response to either the August 14 or August 17 FOIA request claims that any records or portions of records are exempt from disclosure, order Defendant to provide a reasonable basis for its exemptions to satisfy requirements of the *Vaughn v. Rose*.¹

E. Award Plaintiff its costs of this action, including reasonable attorney fees pursuant to 5 U.S.C. § 552(a)(4)(E).

F. Retain jurisdiction to ensure compliance with the Court's decree.

G. Grant such other relief as the Court deems just and proper.

¹ 484 F.2d 820 (D.C. Cir. 1973).

DATED: October 17, 2017

Respectfully submitted,

/s/ Eric Schaeffer

Eric Schaeffer, DC Bar No. 427669

Environmental Integrity Project

1000 Vermont Ave., Suite 1100

Washington, DC 20005

(202) 263-4440

eschaeffer@environmentalintegrity.org

Counsel for Environmental Integrity Project



1000 Vermont Avenue, NW
Suite 1100
Washington, DC 20005
Main: 202-296-8800
Fax: 202-296-8822
www.environmentalintegrity.org

August 14, 2017

Via online form submission.

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Act request for EPA Records of Administrator Pruitt's schedule of meetings with outside parties from May 19 through August 14, 2017 and travel vouchers from June 13 through August 14, 2017

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 551 et seq., I am writing on behalf of the Environmental Integrity Project (EIP) to request the following records held by the U.S. Environmental Protection Agency (EPA):

Records Requested

- Records of Administrator Pruitt's schedule of meetings with outside parties from May 19, 2017 to August 14, 2017 that includes the persons with whom the Administrator met, their organizational affiliations, and the topics discussed.
 - For the purposes of this request, the term "outside parties" includes any person who is not an employee of the federal government.
 - The request for "meetings" includes information that indicate the date, time, location, topic, and host organization for any speeches or other presentations by the Administrator at locations outside the offices of EPA or other federal buildings.
- Records of Administrator Pruitt's travel vouchers, including records of payments made and/or pending claims for reimbursement, from June 13, 2017 to August 14, 2017.

Format of Records

EPA has provided records of (1) Administrator Pruitt's calendar from February 21 through March 31, 2017 and (2) Administrator Pruitt's travel vouchers from March 1 through May 31, 2017, in response to a separate May 18 FOIA request submitted by EIP (EPA-HQ-2017-007486). *See* Attachment A (calendar) and Attachment B (travel vouchers). The February

21 through March 31, 2017 calendar was also provided in response to earlier FOIA requests by both InsideEPA (EPA-HQ-2017-004932) and E&E News (EPA-HQ-2017-005895).

Schedule of Meetings with Outside Parties

EIP will accept disclosure of Administrator Pruitt's May 19 through August 14, 2017 schedule of meetings with outside parties in a format similar to the records of the Administrator's calendar provided in EPA's earlier response to the InsideEPA and E&E News. *See Attachment A.*

Travel Vouchers

EIP will accept disclosure of Administrator Pruitt's June 13 through August 14, 2017 travel vouchers in a format similar to the records of the Administrator's travel vouchers provided in EPA's earlier response to EIP's May 18 FOIA request. *See Attachment B.*

Further, as EPA has indicated it intends to produce the Administrator's calendar from April 1 through May 18, 2017 by September 11, 2017 in response to EIP's May 18 FOIA request, we ask that EPA treat this current FOIA request as separate from EIP's May 18 request. We also ask that EPA treat this current request as separate from EIP's August 3 FOIA request (for records of travel expenditures incurred by Administrator Pruitt and accompanying staff), as that request purposefully limited the timeframe of records sought to June 5 through June 12, 2017 in attempt to expedite a response from EPA.

Claims of Exemption from Disclosure

If you regard any documents as exempt from required disclosure under FOIA, please exercise your discretion to disclose them nevertheless, keeping in mind that FOIA "is the most prominent expression of a profound national commitment to ensuring an open Government" and that "[a]ll agencies should adopt a presumption in favor of disclosure." President Barack Obama, Memorandum For the Heads of Executive Departments and Agencies: Freedom of Information Act, 74 Fed. Reg. 4, 863 (Jan. 26, 2009).

In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non-exempt portions of records and communications as required by FOIA.

Should you elect to invoke an exemption, please provide the required full or partial denial letter and sufficient information to determine whether or not there may be grounds to appeal EPA's decision. In accordance with the minimum requirements and regulations of due process, this information should include:

- Basic factual material, including the originator, date, length, and addresses of the withheld items.

- Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

Waiving Request for Fee Waiver

This FOIA request meets the case-by-case requirements for a fee waiver, by satisfying each of the six factors which must be met to qualify for a fee waiver under EPA regulations found at 40 C.F.R. § 2.107. However, although EIP is entitled to a fee waiver, we are waiving any request for a waiver of fees.

Opportunity to Provide Clarification

If I can provide any additional information or answer any questions that can help to clarify or limit this request, please do not hesitate to contact me at (202) 888-2701 or via email at slam@environmentalintegrity.org.

Thank you for your assistance with this FOIA request, and I look forward to hearing from you.

Sincerely,



Sylvia Lam
Attorney
Environmental Integrity Project
1000 Vermont Avenue NW
Suite 1100
Washington, DC 20005
(202) 888-2701

Enclosures:

Attachment A: EPA Records of Administrator Pruitt's Calendar from February 21 through March 31, 2017.

Attachment B: EPA Records of Administrator Pruitt's Travel Vouchers from March 1 through May 31, 2017.

From: foia_hq@epa.gov
To: [Sylvia Lam](#)
Subject: FOIA Request EPA-HQ-2017-010504 Submitted
Date: Monday, August 14, 2017 4:56:06 PM

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: EPA-HQ-2017-010504
- Requester Name: Sylvia Lam
- Date Submitted: 08/14/2017
- Request Status: Submitted
- Description: Please see attached FOIA request and attachments.



1000 Vermont Avenue, NW
Suite 1100
Washington, DC 20005
Main: 202-296-8800
Fax: 202-296-8822
www.environmentalintegrity.org

August 17, 2017

Via online form submission.

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Act request for EPA records of Travel Vouchers for any EPA Staff Accompanying Administrator Pruitt from February 21 through June 4, 2017 and from June 13 through August 17, 2017

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 551 et seq., I am writing on behalf of the Environmental Integrity Project (EIP) to request the following records held by the U.S. Environmental Protection Agency (EPA):

Records Requested

Records of travel vouchers for all travel outside of Washington, DC by any and all EPA staff accompanying Administrator Pruitt, including but not limited to any EPA staff assigned to security detail for the Administrator, (1) from February 21, 2017 through June 4, 2017, and (2) from June 13, 2017 through August 17, 2017.

Format of Records

EPA has provided records of Administrator Pruitt's travel vouchers from March 1 through May 31, 2017, in response to a separate May 18 FOIA request submitted by the Environmental Integrity Project (EPA-HQ-2017-007486). *See* Attachment A. We will accept disclosure of travel vouchers for EPA staff accompanying the Administrator (from February 21 through June 4, 2017 and from June 13 through August 17, 2017) in a similar format as the travel vouchers provided in EPA's earlier response to EIP's May 18 FOIA request.

Claims of Exemption from Disclosure

If you regard any documents as exempt from required disclosure under FOIA, please exercise your discretion to disclose them nevertheless, keeping in mind that FOIA "is the most prominent expression of a profound national commitment to ensuring an open Government" and that "[a]ll agencies should adopt a presumption in favor of disclosure." President Barack

Obama, Memorandum For the Heads of Executive Departments and Agencies: Freedom of Information Act, 74 Fed. Reg. 4, 863 (Jan. 26, 2009).

In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non-exempt portions of records and communications as required by FOIA.

Should you elect to invoke an exemption, please provide the required full or partial denial letter and sufficient information to determine whether or not there may be grounds to appeal EPA's decision. In accordance with the minimum requirements and regulations of due process, this information should include:

- Basic factual material, including the originator, date, length, and addresses of the withheld items.
- Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

Waiving Request for Fee Waiver

This FOIA request meets the case-by-case requirements for a fee waiver, by satisfying each of the six factors which must be met to qualify for a fee waiver under EPA regulations found at 40 C.F.R. § 2.107. However, although we are entitled to a fee waiver, we are waiving any request for a waiver of fees.

Opportunity to Provide Clarification

If I can provide any additional information or answer any questions that can help to clarify or limit this request, please do not hesitate to contact me at (202) 888-2701 or via email at slam@environmentalintegrity.org.

Thank you for your assistance with this FOIA request, and I look forward to hearing from you.

Sincerely,



Sylvia Lam
Attorney
Environmental Integrity Project
1000 Vermont Avenue NW
Suite 1100
Washington, DC 20005
(202) 888-2701

Enclosure:

Attachment A: EPA Records of Administrator Pruitt's Travel Vouchers from March 1 to May 31

From: foia_hq@epa.gov
To: [Sylvia Lam](#)
Subject: FOIA Request EPA-HQ-2017-010603 Submitted
Date: Thursday, August 17, 2017 3:50:01 PM

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: EPA-HQ-2017-010603
- Requester Name: Sylvia Lam
- Date Submitted: 08/17/2017
- Request Status: Submitted
- Description: Please see attached FOIA request letter and enclosure.

From: [Blake, Wendy](#)
To: [Sylvia Lam](#)
Cc: [Miller, Kevin](#); [Walker, Denise](#)
Subject: RE: EPA-HQ-2017-010504 and EPA-HQ-2017-010603
Date: Monday, October 16, 2017 5:52:14 PM

Sylvia,

As of today, I am not in a position to propose a schedule with regard to the FOIAs referenced above. As I mentioned to you, we have had a substantial increase in FOIAs across the Agency, and that is particularly true in the Office of the Administrator. We are working diligently to address those FOIAs, but aren't in a position today to provide a specific schedule for release in regard to the above-noted FOIAs.

Wendy

Wendy L. Blake
Associate General Counsel
General Law Office
Office of General Counsel
U.S. Environmental Protection Agency
phone: (202) 564-1821
fax: (202) 564-5433

From: Sylvia Lam [<mailto:slam@environmentalintegrity.org>]
Sent: Monday, October 16, 2017 9:49 AM
To: Blake, Wendy <Blake.Wendy@epa.gov>
Subject: RE: EPA-HQ-2017-010504 and EPA-HQ-2017-010603

Thank you, Wendy. I hope you had a good weekend. I plan on giving you a call this afternoon to check in, but please let me know if you have anything to report by 4pm today.

Best,
Sylvia

From: Blake, Wendy [<mailto:Blake.Wendy@epa.gov>]
Sent: Friday, October 13, 2017 2:37 PM
To: Sylvia Lam <slam@environmentalintegrity.org>
Subject: Re: EPA-HQ-2017-010504 and EPA-HQ-2017-010603

Sylvia,

Per our conversation, I don't have an update as of today. I hope to have something to report on Monday. I will touch base with you then, and thank you for reaching out to me.

Wneddy

From: Sylvia Lam <slam@environmentalintegrity.org>
Sent: Friday, October 13, 2017 2:07 PM
To: Blake, Wendy
Subject: Re: EPA-HQ-2017-010504 and EPA-HQ-2017-010603

Hi Wendy, I have not heard from you so I wanted to check in to see whether you have any updates you can share on when EPA expects to respond and produce the records for these FOIA requests.

Thank you,
Sylvia

From: Blake, Wendy <Blake.Wendy@epa.gov>
Sent: Tuesday, October 10, 2017 12:11:47 PM
To: Sylvia Lam
Cc: Eric Schaeffer; Miller, Kevin; Williams, LaShawn
Subject: RE: EPA-HQ-2017-010504 and EPA-HQ-2017-010603

Sylvia,

Thank you for reaching out. Let me do some research and get back to you. I am in meetings all day until 5:30, so it will likely not be today.

Wendy

Wendy L. Blake
Associate General Counsel
General Law Office
Office of General Counsel
U.S. Environmental Protection Agency
phone: (202) 564-1821
fax: (202) 564-5433

From: Sylvia Lam [<mailto:slam@environmentalintegrity.org>]
Sent: Tuesday, October 10, 2017 11:23 AM
To: Blake, Wendy <Blake.Wendy@epa.gov>
Cc: Eric Schaeffer <eschaeffer@environmentalintegrity.org>
Subject: EPA-HQ-2017-010504 and EPA-HQ-2017-010603

Hi Wendy,

It was nice meeting you last week. I am emailing to check in on the status of two other outstanding FOIA requests submitted by EIP:

1. EPA-HQ-2017-010504 submitted on August 14 – for records of Administrator Pruitt’s (i) schedule of meetings with outside parties from May 19 through August 14, and (ii) travel vouchers from June 13 through August 14; and
2. EPA-HQ-2017-010603 submitted on August 17 – for records of travel vouchers for all travel outside of Washington, DC by any and all EPA staff accompanying Administrator Pruitt (i) from February 21 through June 4, and (ii) from June 13 through August 17.

Could you please provide a status update on when EPA will respond to and produce the requested records? As responses to both requests was due in mid-September, we plan to file a complaint by the end of the week if a reasonable date for response and production is not provided by the Agency.

Thanks,
Sylvia

Sylvia Lam
Attorney
Environmental Integrity Project
1000 Vermont Avenue, NW, Suite 1100
Washington, DC 20005
(202) 888-2701

CONFIDENTIAL LEGAL COMMUNICATION / WORK PRODUCT: The information transmitted is intended only for the person or entity to whom it is addressed, and may contain privileged and confidential attorney-client communications and/or confidential attorney work product. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers and/or electronic devices. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.

I. (a) PLAINTIFFS Environmental Integrity Project		DEFENDANTS United States Environmental Protection Agency																									
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)		COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED																									
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Eric Schaeffer, Environmental Integrity Project 1000 Vermont Avenue, NW Suite 1100 Washington, DC 20005 (202) 263-4440		ATTORNEYS (IF KNOWN)																									
II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <u>FOR DIVERSITY CASES ONLY!</u> <table><thead><tr><th></th><th>PTF</th><th>DFT</th><th></th><th>PTF</th><th>DFT</th></tr></thead><tbody><tr><td>Citizen of this State</td><td><input type="radio"/> 1</td><td><input type="radio"/> 1</td><td>Incorporated or Principal Place of Business in This State</td><td><input type="radio"/> 4</td><td><input type="radio"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="radio"/> 2</td><td><input type="radio"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="radio"/> 5</td><td><input type="radio"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="radio"/> 3</td><td><input type="radio"/> 3</td><td>Foreign Nation</td><td><input type="radio"/> 6</td><td><input type="radio"/> 6</td></tr></tbody></table>			PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																						
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																						
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																						
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																						

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

ED 001793A 00028754-00019

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 FOIA Citizen Suit under 5 U.S.C. 552 to compel USEPA to respond to request for records and to deliver requested records

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
------------------------------------	--	-----------------	--

VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form
-------------------------------------	-------------------	---	---

DATE: 10/17/2017	SIGNATURE OF ATTORNEY OF RECORD: /s/ Eric Schaeffer
------------------	---

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CLEAR FORM

Environmental Integrity Project

Plaintiff

v.

United States Environmental Protection Agency

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Channing D. Phillips
c/o Civil Process Clerk
United States Attorney's Office
555 4th Street, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Eric Schaeffer
Environmental Integrity Project
1000 Vermont Ave., NW
Suite 1100
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

' I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

' I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

' I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

' I returned the summons unexecuted because _____; or

' Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CLEAR FORM

Environmental Integrity Project

Plaintiff

v.

United States Environmental Protection Agency

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

' I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

' I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

' I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

' I returned the summons unexecuted because _____; or

' Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CLEAR FORM

Environmental Integrity Project

Plaintiff

v.

United States Environmental Protection Agency

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Eric Schaeffer
Environmental Integrity Project
1000 Vermont Avenue, NW
Suite 1100
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

' I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

' I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

' I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

' I returned the summons unexecuted because _____; or

' Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset